

THE TRIAL OF SUSAN B. ANTHONY

Abridged Script
2.3.2020

SCENE 1: THE VOTE

A room full of men. They take blank ballots from a table in the center of the room, which also holds a ballot box. Several poll watchers wander around.

NARRATOR

Today is Election Day, November 5, 1872.
In the first district of the Eighth Ward
of Rochester, New York, men have gathered
to vote for new Members of Congress. But a
group of women has other plans.

SUSAN B. ANTHONY

<appearing stage right with a group of
women behind her>

<speaking to the other women> Today is the
day! Now we will exercise our
Constitutional right to vote.

The women move into the room among the men, acting as
though they belong there. One by one the men realize that
there are women in the room and they murmur to one another.

As the women take blank ballots from the table they are
approached by one of the poll officials.

BEVERLY WAUGH JONES

<pompously> Ladies, can I be of
assistance?

SUSAN B. ANTHONY

Certainly. We <gesturing to the other
women> have registered to vote and mean to
do so.

BEVERLY WAUGH JONES

<taken aback> I, uh...

Jones turns and sees another poll official, Edwin T. Marsh.
Jones gestures to Marsh and he walks over. They discuss
what to do away from the women, who are now marking their
ballots. Jones watches them unhappily.

EDWIN T. MARSH

<drily> I see you've met Miss Anthony. I was there when and her friends registered to vote.

Jones and Marsh are joined by a young man, the third poll official, who has been watching from across the room.

WILLIAM B. HALL

<looking nervously at Susan and the other women> Can they do that?

BEVERLY WAUGH JONES

I didn't think they would go through with it. <to the other 2 men> This is unfair. How can we get involved when the country's best legal minds can't decide?

EDWIN T. MARSH

It's an impossible situation. But I say we let them cast their ballots.

BEVERLY WAUGH JONES

<dubious> I don't like this at all. But I will go along with you.

The women have finished filling out their ballots. They approach Jones, Hall and Marsh triumphantly.

SUSAN B. ANTHONY

Gentlemen! We are registered voters and we have completed our ballots. We insist on submitting our votes.

Jones looks at Marsh and Hall. Marsh shrugs.

BEVERLY WAUGH JONES

This way, please.

Another man is waiting by the ballot box.

SYLVESTER LEWIS

I object to these proceedings! <points at Jones> You know perfectly well that women are not permitted to vote.

SUSAN B. ANTHONY

<to Lewis> You again? You couldn't stop us registering and you won't keep us from voting.

BEVERLY WAUGH JONES

<meekly> Their voter registrations are in order.

SYLVESTER LEWIS

So you say, but I was there and rightly protested against their being allowed to register.

SUSAN B. ANTHONY

<gesturing at Marsh> He consulted the Supervisor of Elections and we were permitted to register. It is not for you to say that we cannot vote.

SYLVESTER LEWIS

<coldly> Madam, you have not heard the end of this.

<to Jones, Hall and Marsh> Neither have you, gentlemen.

Lewis stalks out of the room. The women happily fold their ballots and put them in the ballot box. Talking excitedly, with Susan leading them, they leave the room together while the men voters watch in astonishment.

EDWIN T. MARSH

<sighs> Anything for a quiet life.

SCENE 2: THE ARREST

Susan B. Anthony is back home, radiant with her success. She reads aloud from a letter she is writing to her friend and fellow suffragist, Elizabeth Cady Stanton.

SUSAN B. ANTHONY

<sitting at a table, excitedly reading aloud as she writes> Dear Mrs. Stanton! Well I have been and gone and done it!!

If only now--all the women suffrage supporters would work to this end--what strides we might make this winter!

But I'm awful tired--for five days I have been on the constant run--but to splendid purpose. So all right--I hope you voted too!

There is a heavy knock at the front door. Susan stops writing and goes to see who is outside.

U.S. DEPUTY MARSHAL

Good afternoon. Is this the residence of Miss Susan Brownell Anthony?

SUSAN B. ANTHONY

It is, and I am Miss Anthony. You are expected; please come in.

Susan and the marshal sit on chairs opposite one another. Susan is perfectly calm and composed; the marshal is visibly uncomfortable.

U.S. DEPUTY MARSHAL

<clears his throat> Nice weather we're having.

Susan doesn't reply. She cocks her head and sighs impatiently.

MARSHAL

Um. Commissioner Storrs would like to see you.

SUSAN B. ANTHONY

What for?

MARSHAL

To ... to arrest you.

SUSAN B. ANTHONY

<staring at the marshal> Is that the way
you arrest men?

MARSHAL

<embarrassed> No.

Susan stands up and holds out her wrists.

SUSAN B. ANTHONY

Do it properly, then.

MARSHAL

<horrified> No ma'am, you can just follow
me with one of your sisters...

SUSAN B. ANTHONY

<firmly> Don't be ridiculous. Let's go.

She leads the embarrassed marshal out of the room.

SCENE 3: THE PRELIMINARIES

Susan appearing before Commissioner William Storrs for
arraignment. She is accompanied by her attorneys. Sylvester
Lewis is also there.

COMMISSIONER STORRS

Miss Susan B. Anthony, you are charged
with voting for members of the U.S. House
of Representatives without having a lawful
right to vote, in violation of section 19
of the Enforcement Act of 1870.

SUSAN B. ANTHONY

Am I? Well, I decline to enter a plea.

COMMISSIONER STORRS

The court will now hear from Sylvester Lewis.

SYLVESTER LEWIS

I was present when Miss Anthony and her supporters registered to vote. Despite my protests they were permitted to register. They also voted, which they had no legal right to do.

COMMISSIONER STORRS

Miss Anthony?

SUSAN B. ANTHONY

I don't deny my actions though I reject his interpretation. The Constitution guarantees my right as a citizen to vote.

JOHN VAN VOORHIS

Did you consult with anyone first?

SUSAN B. ANTHONY

Yes, with my attorney, Judge Henry Selden. He told me that he had not studied the question.

JOHN VAN VOORHIS

Did you have any doubt yourself of your right to vote?

SUSAN B. ANTHONY

Not a particle.

COMMISSIONER STORRS

On the basis of this evidence I conclude that Miss Anthony has violated the law. She is to be held on \$500 bail.

HENRY SELDEN

If you're taken into custody for not paying bail, we can file for a writ of habeas corpus with the U.S. Supreme Court.

SUSAN B. ANTHONY

<still in shock> I never dreamed of U.S. officers prosecuting me for voting.
<straightening up> I shall rally my supporters! This isn't the end!

JOHN VAN VOORHIS

We'll get to work.

A different judge, Nathan Hall, takes his seat behind the bench.

NARRATOR

Henry Selden approached a U.S. district judge asking for a writ of habeas corpus and that Susan be released from custody.

NATHAN HALL

I will allow defendant to take her case to the Supreme Court of the United States.
The defendant's bail is raised to \$1,000.

Susan and Van Voorhis leave the courtroom while Selden speaks inaudibly to the judge. Selden then joins them in the hallway.

SUSAN B. ANTHONY

I didn't pay the \$500 and I'm certainly not going to pay \$1,000.

HENRY SELDEN

That won't be necessary. I have paid your bail.

Susan is speechless.

JOHN VAN VOORHIS

But that means she's lost her chance to get her case before the Supreme Court!

SUSAN B. ANTHONY

<furious> How dare you! Explain yourself!

Selden looks sadly at her. He opens his hands in supplication.

HENRY SELDEN

I could not see a lady I respected put in jail.

Susan is still angry, but subdued.

NARRATOR

Despite this setback, Susan wasn't giving up. She gave well-attended, hour-long talks throughout Monroe County. She quite openly attempted to sway potential jurors toward her cause.

SCENE 4: THE TRIAL

A packed courtroom. Spectators murmur to each other and crane their necks for a better view. Susan sits at the defense table, flanked by her attorneys. Selden intently studies his notes. The prosecutor does likewise.

NARRATOR

U.S. Attorney Richard Crowley saw what she was up to and requested that her trial be moved to the U.S. District Court in Canandaigua, Ontario County. The case would be tried by Judge Ward Hunt, who had recently been elevated to the U.S. Supreme Court. The trial began on Tuesday, June 17, 1873.

JOHN VAN VOORHIS

<to Susan> How are you feeling?

SUSAN B. ANTHONY

A bit hoarse. Speechifying for 21 days in a row! Last night's crowd was very encouraging.

JOHN VAN VOORHIS

Did you see President Millard Fillmore is
in the audience?

Before she can respond the bailiff enters next to the
judge's bench.

BAILIFF

All rise.

Judge Ward Hunt enters and sits down at the bench. Susan
and her attorneys watch him keenly.

BAILIFF

Please be seated.

Everyone sits down.

JUDGE WARD HUNT

Mr. Crowley, please begin.

RICHARD CROWLEY

<speaking to the jury> On the 5th of
November, 1872, there was held in this
State a general election for candidates to
represent several districts of this State
in the Congress of the United States. The
defendant, Miss Susan B. Anthony, at that
time resided in the city of Rochester, in
the county of Monroe, Northern District of
New York. Upon the 5th day of November,
1872, she voted for a representative in
the Congress of the United States, to
represent the 29th Congressional District
of this State, and also for a
representative at large for the State of
New York, to represent the State in the
Congress of the United States.

<pause> At that time she was a woman. I
suppose there will be no question about
that.

The question in this case, if there be a
question at all, will, in my judgment, be
rather a question of law than one of fact.

I suppose that there will be no question of fact, substantially, in the case when all of the evidence is out, and it will be for you to decide under the charge of his honor, the Judge, whether or not the defendant committed the offence of voting for a representative in Congress upon that occasion.

As far as the government is concerned, there is no question about it one way or the other, a question of fact or a question of law. Whatever Miss Anthony's intentions may have been, good or bad, she did not have a right to vote. And if she did vote without having a lawful right to do so, then there is no question that she is guilty of violating a law enacted by the Congress of the United States.

NARRATOR

Beverly W. Jones, one of the poll officials, testified that Susan B. Anthony had been registered to vote, that she had completed a ballot and he had accepted it.

JUDGE WARD HUNT

Mr. Selden.

HENRY SELDEN

I call myself as a witness to demonstrate Miss Anthony's state of mind.

RICHARD CROWLEY

<standing up> Your Honor?

JUDGE WARD HUNT

<grumbling> I'll allow it. Go ahead, Mr. Selden.

HENRY SELDEN

Before the last election, Miss Anthony called upon me for advice, upon the question whether she was or was not a legal voter. I examined the question, and

gave her my opinion, unhesitatingly, that the laws and Constitution of the United States authorized her to vote, as well as they authorize any man to vote.

I propose to call Miss Anthony as to the fact of her voting-on the question of the intention or belief under which she voted.

RICHARD CROWLEY

I object. Miss Anthony is not a competent as a witness on her own behalf.

HENRY SELDEN

Very well. Your Honor, the defense rests.

JUDGE WARD HUNT

Gentlemen, the evidence portion of the trial is concluded. You may now commence your legal arguments.

Selden stands up straight, shaking out his jacket. He stride to the podium to speak.

SELDEN

We will show that the whole subject of what should constitute the "privileges and immunities" of the citizen being left to the individual states is not allowed by the Constitution.

In the 14th Amendment, the United States has not only declared what constitutes citizenship, both in the United States and in the several States, securing the rights of citizens to "all persons born or naturalized in the United States."

The 14th Amendment also absolutely prohibited the States from making or enforcing "any law which shall abridge the privileges or immunities of citizens of the United States." By virtue of this provision, I insist that Miss Anthony's act of voting was lawful.

Miss Anthony believed that she had a right to vote, and was advised the same. She may also have been advised, as was clearly the fact, that the question as to her right could not be brought before the courts for trial, without her voting or offering to vote, and if either was criminal, the one was as much so as the other.

Now Miss Anthony stands arraigned as a criminal for taking the only steps by which it was possible to bring the great constitutional question as to her right, before the tribunals of the country for adjudication.

If for acting, in the most perfect good faith, with motives as pure and impulses as noble as any which can find place in your honor's breast in the administration of justice, she is by the laws of her country to be condemned as a criminal, then she must abide the consequences. Her condemnation, however, under such circumstances, would only add another most weighty reason to show that women need the aid of the ballot for their protection.

NARRATOR

Selden continued to speak for 3 hours. The prosecution then spoke for another 2 hours.

Judge Hunt removes some papers from his pocket. Susan raises her eyebrows but says nothing.

JUDGE WARD HUNT

Gentlemen of the jury, the defendant insists that she has a right to vote. She claims that the provision of the New York State Constitution that limits the right to vote to men is void because it violates the 14th Amendment of the U.S. Constitution. I maintain that the privilege of voting is a right or privilege arising under the Constitution of the individual state, and not of the

United States Constitution. If the right to vote belongs to any particular person, it is because that person is entitled to it by the laws of the state where he resides, and not because of citizenship of the United States.

Susan fidgets as though she wants to say something. Selden places his hand on her arm to restrain her.

JUDGE WARD HUNT

If the 15th Amendment had contained the word "sex," the argument of the defendant would have been potent. But the amendment does not contain that word. It is limited to race, color, or previous condition of servitude. The 14th Amendment gives no right to a woman to vote. Therefore, the voting by Miss Anthony was in violation of the law.

There is no question: I direct the jury to find the defendant guilty of illegal voting.

HENRY SELDEN

Your Honor, I wish to move for a new trial.

JUDGE WARD HUNT

The motion is denied.

The defendant will stand up.

Susan stands up.

JUDGE WARD HUNT

Has the prisoner anything to say why sentence shall not be pronounced?

SUSAN B. ANTHONY

Yes, your honor, I have many things to say.

Judge Hunt looks exasperated; the jurors lean in to listen.

By ordering a verdict of guilty, you have trampled underfoot every vital principle of our government. My natural rights, my civil rights, my political rights, my judicial rights, are all alike ignored.

As she speaks she becomes increasingly angry.

Robbed of the fundamental privilege of citizenship, I am degraded from the status of a citizen to that of a subject - not only me, but all of my sex, are, by your honor's verdict, doomed to political subjection under this, so-called, "form of government".

JUDGE HUNT

Your attorney already spent three hours saying this. The Court isn't interested in listening to it again.

SUSAN B. ANTHONY

May it please your honor, I am not arguing the question. I am simply stating the reasons why sentence cannot, in justice, be pronounced against me. Your denial of my right to vote is the denial of my right of consent as one of the governed. It is the denial of my right of representation as one of the taxed, the denial of my right to a trial by a jury of my peers as an offender against law, therefore, the denial of my sacred rights to life, liberty, property and -

Hunt cuts her off, banging the gavel.

JUDGE WARD HUNT

The prisoner must sit down - the Court cannot allow it. The prisoner has been tried according to the established forms of law.

SUSAN B. ANTHONY

Yes, your honor, but by forms of law all made by men, interpreted by men,

administered by men, in favor of men, and against women. Your honor's ordered verdict of guilty against a United States citizen for her exercise of a citizen's right to vote is simply because that citizen was a woman and not a man.

Yesterday, the same man-made forms of law declared it a crime punishable with \$1,000 fine and six months imprisonment, for you, or me, or any of us, to give a cup of cold water, a crust of bread, or a night's shelter to a fugitive slave as he was tracking his way to Canada. And every man or woman with a drop of human sympathy violated that wicked law, regardless of consequences, and was justified in doing so. The slaves who got their freedom got it in spite of unjust forms of law. Now women must, to get their right to a voice in this government, take the same opportunity!

I have taken mine, and mean to take it at every possible opportunity.

JUDGE HUNT

The Court orders the prisoner to sit down.
It will not allow another word -

She cuts him off. She is practically shaking her fist at him. The jury is all ears.

SUSAN B. ANTHONY

When I was brought before your honor for trial, I hoped for a broad and liberal interpretation of the Constitution and its recent amendments, declaring the equality of the rights guaranteed to all persons born or naturalized in the United States.

But failing to get this justice - failing, even, to get a trial by a jury not of my peers -

She gestures at the jury (all male) and they look down at their hands, embarrassed.

I do not ask leniency at your hands - but
rather the full rigors of the law -

JUDGE WARD HUNT

The court must insist -

She sits down.

JUDGE HUNT

The prisoner will stand up.

She stands up again.

JUDGE HUNT

The sentence of the Court is that you pay
a fine of one hundred dollars and the
costs of the prosecution.

SUSAN B. ANTHONY

May it please your honor, I shall never
pay a dollar of your unjust penalty. All I
possess is a \$10,000 debt, incurred by
publishing my paper, The Revolution. The
sole object of the paper was to educate
all women to do precisely as I have done:
rebel against your man-made, unjust,
unconstitutional forms of law. The laws
that tax, fine, imprison and hang women,
while they deny them the right of
representation in the government. I shall
work on to pay every dollar of that honest
debt, but not a penny shall go to this
unjust claim.

And I shall earnestly and persistently
continue to urge all women to the
practical recognition of the old
revolutionary maxim, that "Resistance to
tyranny is obedience to God."

JUDGE HUNT

<wearily> Madam, the Court will not order
you committed until the fine is paid.

The jurors start filing out of the jury box.

NARRATOR

Judge Hunt had made up his mind before hearing any arguments. Others, however, were impressed by Susan's pleas.

One juror pauses next to the narrator.

JUROR

If the judge hadn't intervened, I would have voted to acquit.

SCENE 5: NOT QUITE THE END

Two scenes are on the stage, with the narrator between them. To the narrator's left, a court clerk sits behind a table, busily writing. The marshal stands in front of him. Gesturing toward the clerk and the marshal, the narrator speaks.

NARRATOR

It's now July 1873. Susan B. Anthony still refuses to pay her fine and court fees.

COURT CLERK

<glancing up, then back down at the papers> Well? You've been to Miss Anthony's home, what did you find?

U.S. DEPUTY MARSHAL

<in an official-sounding voice> I have made a diligent search and can find no goods or chattels or land or tenements that the court can seize to satisfy the fine.

COURT CLERK

<stops writing, stares at the marshal> That's it? Seriously?

U.S. DEPUTY MARSHAL

Do you want me to keep looking or...?

COURT CLERK

<waving him away, impatiently> Oh, never mind.

NARRATOR

She never does pay up.

To the narrator's right, the three poll workers are sitting in chairs. Susan's fellow suffragists join them, bringing food and drinks and newspapers.

NARRATOR

All 3 poll officials had also been convicted for allowing Susan and her supporters to vote. Like her, they refused to pay their fines. In February 1874, they are jailed for their refusal to pay their fines. They have a large group of supporters, including Susan B. Anthony herself.

A messenger comes running over to the prisoners.

MESSENGER

She did it! Susan convinced Representative Butler and Senator Sargent to help you, and they persuaded President Grant to offer a pardon! You're free to go!

NARRATOR

They were also re-elected to their old positions.

The poll officials shake hands with each other and the suffragists as they exit toward the rear.

SCENE 6: THE 19TH AMENDMENT

Susan walks to the front of the stage, facing the audience. She is flanked by two women on either side. Two of the women are dressed as suffragists in white dresses with "Votes for Women" sashes and carrying banners. The other two are present-day women in regular street clothes with "I Voted" stickers on their shirts.

SUFFRAGIST #1

A bill for women's suffrage was introduced in the United States Senate in 1878. It failed.

SUFFRAGIST #2

Women were given the right to vote in individual states, beginning out west. Wyoming in 1864, Colorado in 1893, Idaho in 1896, and Utah in 1896.

PRESENT-DAY WOMAN #1

The 19th Amendment passed the House in 1918, then failed in the Senate by 2 votes. In February 1919, it failed in the Senate by 1 vote.

PRESENT-DAY WOMAN #2

Later in 1919, the 19th Amendment passed both houses of Congress and was sent to the states for ratification. Wisconsin and Michigan ratify right away.

SUSAN B. ANTHONY

The Susan B. Anthony Amendment, as it was called, was adopted into the Constitution on August 26, 1920. Susan B. Anthony, who died in 1906, did not live to see it.

She links arms with the women on either side of her.

You're welcome!

FIN

CAST

NARRATOR

SUSAN B. ANTHONY - SUFFRAGIST

SYLVESTER LEWIS - DEMOCRATIC PARTY POLL WATCHER

EDWIN T. MARSH - POLL OFFICIAL

WILLIAM B. HALL - POLL OFFICIAL

BEVERLY WAUGH JONES - POLL OFFICIAL

JOHN VAN VOORHIS - SUSAN B. ANTHONY'S ATTORNEY

HENRY SELDEN - SUSAN B. ANTHONY'S ATTORNEY

RICHARD CROWLEY, U.S. ATTORNEY

NATHAN HALL, U.S. DISTRICT JUDGE

COMMISSIONER WILLIAM STORRS

JUDGE WARD HUNT

U.S. DEPUTY MARSHAL

GROUP OF SUFFRAGISTS

MEN VOTERS

JURORS (GROUP)

JUROR

BAILIFF

COURT CLERK

MESSENGER

SUFFRAGIST #1

SUFFRAGIST #2

PRESENT-DAY WOMAN #1

PRESENT-DAY WOMAN #2